

RECEIVED

SEP 23 2010

JS

TONY R. MOORE, CLERK
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

SANDRA GOODMAN

:

VERSUS

:

CIVIL ACTION NO.: 6:10-CV-00270

JAY ALLEN CAPTERVILLE, ET AL

:

JUDGE DOHERTY, MAG. HILL

.....

CONSENT JUDGMENT

By agreement of counsel and considering the **Motion to Strike Penalty, Punitive or Exemplary Damages** and the **Motion to Dismiss Pursuant to Rule 12(b)(2) to dismiss the Abbeville Police Department** previously filed on behalf of the ABBEVILLE POLICE DEPARTMENT and the CITY OF ABBEVILLE; OFFICER JAY ALLEN CAPTERVILLE, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS A POLICE OFFICER FOR THE CITY OF ABBEVILLE; OFFICER NICHOLAS PICARD, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS A POLICE OFFICER FOR THE CITY OF ABBEVILLE; and FORMER CHIEF RICK COLEMAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS FORMER CHIEF OF POLICE OF THE CITY OF ABBEVILLE[**Court Docs. #7 and 9**];

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff's claims for Penalty, Punitive, and Exemplary Damages against the CITY OF ABBEVILLE; OFFICER JAY ALLEN CAPTERVILLE, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS A POLICE OFFICER FOR THE CITY OF ABBEVILLE; OFFICER NICHOLAS PICARD, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS A POLICE OFFICER FOR THE

CITY OF ABBEVILLE; and FORMER CHIEF RICK COLEMAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS FORMER CHIEF OF POLICE OF THE CITY OF ABBEVILLE, be and they are hereby **STRICKEN IN PART**, as there is no Louisiana state statute that allows for the recovery of punitive or exemplary damages in this matter, and that pursuant to *City of Newport v. Fact Concerts, Inc.*, 101 S.Ct. 2748 (1981), punitive damages cannot be recovered from the CITY OF ABBEVILLE; OFFICER JAY ALLEN CAPTERVILLE, IN HIS OFFICIAL CAPACITY AS A POLICE OFFICER FOR THE CITY OF ABBEVILLE; OFFICER NICHOLAS PICARD, IN HIS OFFICIAL CAPACITY AS A POLICE OFFICER FOR THE CITY OF ABBEVILLE; and FORMER CHIEF RICK COLEMAN, IN HIS OFFICIAL CAPACITY AS FORMER CHIEF OF POLICE OF THE CITY OF ABBEVILLE, and that plaintiff's claims for such damages against the CITY OF ABBEVILLE; OFFICER JAY ALLEN CAPTERVILLE, IN HIS OFFICIAL CAPACITY AS A POLICE OFFICER FOR THE CITY OF ABBEVILLE; OFFICER NICHOLAS PICARD, IN HIS OFFICIAL CAPACITY AS A POLICE OFFICER FOR THE CITY OF ABBEVILLE; and FORMER CHIEF RICK COLEMAN, IN HIS OFFICIAL CAPACITY AS FORMER CHIEF OF POLICE OF THE CITY OF ABBEVILLE, for punitive damages be stricken from the record of these proceedings.

Otherwise, plaintiff is allowed to proceed, as prayed for in her original Complaint and 1st Amended Complaint, against OFFICER JAY ALLEN CAPTERVILLE, INDIVIDUALLY; OFFICER NICHOLAS PICARD, INDIVIDUALLY; and FORMER CHIEF RICK COLEMAN, INDIVIDUALLY, as plaintiff may be able to recover penalty, punitive or exemplary damages, should plaintiff ultimately prevail on her federal law claims under 42 U.S.C.A. §1983, or other federal law claims allowing such damages.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the **Motion to Dismiss Pursuant to Rule 12(b)(2) to dismiss the Abbeville Police Department** filed on behalf of the ABBEVILLE POLICE DEPARTMENT [**Court Doc. #9**] be and same is hereby **GRANTED**, and the ABBEVILLE POLICE DEPARTMENT is hereby dismissed from this matter, with prejudice, with plaintiff reserving her rights to proceed against the remaining named defendants.

Mr. George J. Tate has given John F. Wilkes, III the authority to submit this proposed Consent Judgment with his electronic signature.

THUS DONE AND SIGNED this 23 day of September, 2010, at
Lafayette, Louisiana.


JUDGE

SUBMITTED BY:

BORNE & WILKES, L.L.P.

BY: s/John F. Wilkes, III
JOHN F. WILKES, III (Bar Roll #1644), T.A.
JOY C. RABALAIS (Bar Roll #26476)
RAY F. LUCAS, III (Bar Roll #27558)
ERIN N. FRUGE (Bar Roll #32459)
200 West Congress Street, Suite 1000
Post Office Box 4305
Lafayette, Louisiana 70502-4305
Telephone: (337) 232-1604 Ext. 232
Facsimile: (337) 232-1837
E-mail: wilkes@bornewilkes.com

ATTORNEYS FOR THE ABBEVILLE POLICE DEPARTMENT;
THE CITY OF ABBEVILLE; OFFICER JAY ALLEN
CAPTERVILLE, INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY AS A POLICE OFFICER FOR THE CITY OF
ABBEVILLE; OFFICER NICHOLAS PICARD, INDIVIDUALLY
AND IN HIS OFFICIAL CAPACITY AS A POLICE OFFICER
FOR THE CITY OF ABBEVILLE; AND FORMER CHIEF RICK
COLEMAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY
AS FORMER CHIEF OF POLICE OF THE CITY OF ABBEVILLE

APPROVED:

GEORGE J. TATE, P.L.L.C.

BY: s/George J. Tate
George J. Tate, B. R. No. 12663
130 Main Street - P. O. Box 817
Abbeville, La 70511-0817
Telephone: (337) 893-8335
Trlrfacsimile: (337) 893-8653
Email: georgetate@bellsouth.net

ATTORNEY FOR SANDRA GOODMAN

CERTIFICATE

I HEREBY CERTIFY that on the 20th day of September, 2010, a copy of the foregoing
Consent Judgment was filed electronically with the Clerk of Court using the CM/ECF system.
Notice of this filing will be sent to Mr. George J. Tate by operation of the court's electronic filing
system.

s/John F. Wilkes, III
JOHN F. WILKES, III (Bar Roll #01644)
BORNE & WILKES, L.L.P.
Attorney for Defendants